IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 3633 of 2001 (M/S)
(Old No. 4663/1995)

Prem Datt S/o Uma Datt,
R/o Village Kharak Patti Juwa,
Post Office Kafalpani, Tehri Garhwal. …… Petitioner

Versus

1. The Public Service Tribunal,
   U.P., Lucknow.
2. State of U.P. through the Secretary,
   Minor lrrigation, Lucknow.
3. Executive Engineer,
   Tehri Dam Division IXth,
   Tehri. ……. Respondents

Mr. M.C. Pant, Advocate on behalf of the petitioner.
Mr. K.P. Upadhyaya, Brief Holder on behalf of the respondents.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Rajesh Tandon, J.

(Per Hon'ble the Chief Justice)

1. Heard Mr. M.C. Pant, Advocate appearing for the petitioner and Mr. K.P. Upadhyaya, Brief Holder for the respondents.

2. The only question raised in this writ petition is the correctness or otherwise of the order passed by the Public Service Tribunal. In its order, the Public Service Tribunal has, in fact, allowed the application by holding that the termination order was not correct. It has set aside the termination order and ordered the reinstatement or as the case may be, the declaration that the petitioner was in service right from the day, he was appointed i.e. on 28.12.1983 upto 31.12.1984. That is apparent from his appointment order. However, he was terminated and that termination has been set aside by the Tribunal. However, the Tribunal has directed that his salary upto 03.12.1984, alone, should be paid and that is what irks the petitioner, who has come before us by way of this writ petition.

3. We have seen the appointment order. It is clearly up to 31.12.1984 and had the termination not been effected by the State, the petitioner would have continued upto 31.12.1984 and he should have been given the salary upto 31.12.1984.

4. We do not find any reason in that order of the Tribunal as to why the benefit has been restricted to 03.12.1984 and not 31.12.1984. We also do not find any justification in the argument of the Government counsel made before the Tribunal that the appointment was upto 07.12.1984.

5. In that view, we would correct the order of the Tribunal by directing that the salary upto 31.12.1984 and not upto 03.12.1984 as has been ordered by the Tribunal, shall be paid to the petitioner.

6. The petitioner has, now, come up in this writ petition that he should be made permanent. That is completely outside the scope of the Tribunal's order. That was not the prayer before the Tribunal and therefore, the petitioner could not have made that prayer in this writ petition, where he predominantly challenges the Tribunal's order. We will not entertain that prayer at this stage. If the petitioner wants, he may make a representation and may then, proceed with such remedies as are available to him in law.

7. With these observations, the writ petition is disposed of. All the applications in this writ petition are also closed.

(Rajesh Tandon, J.)
21.12.2004

(V.S. Sirpurkar, C.J.)
21.12.2004

G